



**Tufts Medical Center  
Lemuel Shattuck Hospital**



**Transitional Year Residency Program**

**DISCIPLINE AND DISMISSAL OF HOUSE OFFICERS AND APPEAL PROCESS**

**Effective July 2003**

**Revised: June 2011**

**Expiration: Indefinite**

**I. Purpose**

To formalize the procedure for discipline and dismissal of Tufts Transitional Year Residents and appeal process.

**II. Procedures Prior to Initiating Disciplinary Action**

- A. TY Program Director is encouraged to use the procedures set forth in the Policy for Evaluation, Advancement, and Remediation of Transitional Year Residents to address and resolve minor instances of unsatisfactory performance or misconduct prior to initiating the disciplinary actions set forth below.
- B. Independent Evaluation. If an evaluation of the TY Resident performance by the Program Director suggests a situation (such as, but not limited to: medical/mental health, behavioral and/or substance abuse problems) in which the TY Resident exhibits behaviors that suggests an impairment, the Program Director may require an independent evaluation to determine the TY Resident's ability to perform his/her clinical duties and responsibilities. This independent evaluation may be required on its own or in addition to other remedial or disciplinary actions.

**III. Disciplinary Action**

- A. Where remedial efforts are unsuccessful and/or where performance or misconduct is of a serious nature, the TY Program Director shall initiate disciplinary action. Disciplinary action may be taken for reasons including but not limited to any of the following:
  - 1. failure to satisfy the academic or clinical requirements of the training program, including any remedial training program;
  - 2. professional incompetence, misconduct or conduct that might be inconsistent with or harmful to patient care or safety;
  - 3. consistently substandard performance;
  - 4. conduct which calls into question the professional qualifications, ethics, or judgment of the TY Resident;
  - 5. failure to function in a cooperative and reasonable manner with other TY Residents, employees, medical staff, patients, volunteers and/or visitors of the Hospital;
  - 6. violation of the bylaws, rules, regulations, policies, or procedures of the medical staff, Hospital, or applicable department, division or training program, including, without limitation, any violation of the Hospital's sexual harassment policy; or
  - 7. scientific misconduct.
- B. Specific Procedures

Disciplinary action includes probation, suspension, or termination of the TY Resident from the training program or non-renewal of the TY Resident's appointment. Except under circumstances requiring an immediate disciplinary action to preserve acceptable standards of care, safety,

integrity or ethics at the Hospital, the following procedures will be followed. Among the factors to be considered in determining the action(s) to be taken are: the severity and frequency of the offense, documented history of prior remediation or disciplinary action, and the TY Resident's overall performance and conduct.

#### **IV. Probation**

##### **A. General**

1. A TY Resident may be placed on probation following either repeated incidents of deficient performance or inappropriate conduct of a minor nature or following a single incident of deficient performance or inappropriate conduct of a serious nature.
2. The TY Program Director shall have authority to place the TY Resident on probation and to determine the terms of the probation.
3. Probation means a temporary modification of the TY Resident's training program participation or responsibilities, designed to facilitate the TY Resident's accomplishment of program requirements. Probation may include, but is not limited to, special requirements or alterations in scheduling a TY Resident's responsibilities, increased supervision, and/or a restriction, reduction or limitation in clinical or administrative responsibilities.
4. The Program Director shall notify the TY Resident in writing of the decision to place the TY Resident on probation, the reasons for the decision, the required method and timetable for correction, and the date upon which the decision will be reevaluated.
5. During the probationary period, the TY Program Director shall review the TY Resident's performance at regular intervals. At the completion of the probationary period, a written summary will be completed by the TY Program Director and maintained in the TY Resident's Program File.

##### **B. Reconsideration of Probation Decision**

1. The TY Resident may request reconsideration of the probation decision no later than five (5) business days following written notification of the decision. The TY Program Director will meet with the TY Resident and afford the TY Resident an opportunity to provide any provide any information which he/she believes should be considered in connection with this decision and any written comments for inclusion in the Program File. After this meeting, the TY Program Director, following consultation with other members in the TYEC Committee, will render a final decision.
2. Failure to make a timely request for reconsideration will be a considered a waiver of the TY Resident's right to reconsideration.
3. There is no appeal from a final decision to place a TY Resident on probation.

#### **V. Suspension**

##### **A. General**

1. The TY Program Director may temporarily suspend the TY Resident from training program duties by placing him or her on an involuntary leave of absence for seriously deficient performance or seriously inappropriate conduct.
2. The TY Program Director shall notify the TY Resident in writing of the decision to suspend the TY Resident, including the reasons for the suspension, the required method and timetable for correction, and a date, if any, upon which the decision will be re-evaluated. The written

notification shall also advise the TY Resident of his or her right to request an appeal of the suspension decision in accordance with the procedures outlined below. This notice should precede the effective date of the suspension.

3. In circumstances where the TY Program Director determines that immediate disciplinary action is required to preserve acceptable standards of care, safety, integrity or ethics at the Hospital, a TY Resident may be suspended effective immediately. In such situations involving immediate suspension, the TY Program Director shall provide written notification within three (3) business days following suspension.

#### **B. Appeal of Suspension**

1. The TY Resident shall have the right to appeal the suspension decision. The appeal request must be submitted, in writing to the TY Program Director within five (5) business days following written notification of the suspension decision.
2. Failure to make a timely request for a review will be considered a waiver of the TY Resident's right to appeal.
3. If the TY Resident appeals the suspension decision, the TY Program Director and at least 2 other faculty members from the TYEC Committee shall meet with the TY Resident within five (5) business days following receipt of the TY Resident's written request for review, and afford the TY Resident an opportunity to provide any information which he/she believes should be considered in connection with this decision. Within five (5) business days following this meeting, the TYEC will render a decision. In making the decision, the TYEC shall consider all available information including evaluations, faculty recommendations, any material supplied by the TY Resident, and any other information relevant to the decision.
4. There is no further appeal from a decision to suspend a TY Resident.

### **VI. Termination or Non-Renewal of Appointment**

#### **A. General**

1. If the TY Program Director determines that a TY Resident should be terminated from the program or does not renew the TY Resident's appointment (referred to as "termination" or "terminate"), the TY Resident shall receive written notification of this decision.
2. In situations where the termination does not relate to the TY Resident's competence to practice medicine or to a complaint or allegation regarding any violation of law, regulation, or policy of the Hospital, the TY Program Director may afford the TY Resident an opportunity to voluntarily tender his or her resignation within 72 hours after written notice of the decision.
3. If the TY Resident does not submit his or her resignation, or in situations where the TY Program Director has not afforded the TY Resident an opportunity to resign voluntarily, the TY Program Director shall notify the TY Resident in writing of the termination decision and the TY Resident's right to have this decision reviewed by a faculty committee comprised of faculty from departments other than the TY Resident's own department.

#### **B. Appeal of Termination or Non-Renewal of Appointment**

1. The TY Resident must indicate, in writing, that he/she wishes to exercise the right to appeal within five (5) business days following written notification of the termination or non-renewal decision.
2. Failure to make a timely request for an appeal will be considered a waiver of the TY Resident's right to an appeal.

3. The TYEC will be comprised of three (3) faculty members from other departments. The Faculty Review Committee will be selected as follows: the CEO of the Hospital and the Chairman of the Medical Board shall select four (4) faculty members from departments other than the TY Resident's own department. The TY Resident shall be notified in writing of the Faculty Review Committee's composition and will be given an opportunity to select three (3) of the four (4) faculty members to conduct the faculty review hearing. If the TY Resident does not exercise this selection opportunity, the CEO and the Chairman of the Medical Board will make the selection.
4. The hearing will be conducted according to the procedures set out in Appendix A.
5. At the hearing the TY Resident will be permitted to present to the Faculty Review Committee any information or material which the TY Resident considers pertinent to the inquiry including any statements which the TY Resident may wish to make, any written or other documentary material which the TY Resident may wish to offer, and the statements of any individuals whom the TY Resident may wish to present.
6. Neither the TY Resident, the Program Director, nor the Faculty Review Committee may have counsel present at any of the hearings. All the hearing proceedings will be recorded by a stenographer and transcribed, and copies thereof shall be made available to the TY Resident at the TY Resident's request and expense.
7. The Faculty Review Committee shall document and present its findings to the CEO of the Hospital. The CEO shall review and consider the findings of the Faculty Review Committee and make a final decision regarding the TY Resident's status within three (3) business days following receipt of the Faculty Review Committee's findings.
8. The TY Resident shall receive written notification of the CEO's decision. There is no further appeal from the CEO's decision.

## **VII. Reporting to the Board of Registration in Medicine<sup>1</sup>**

Massachusetts law requires Massachusetts hospitals to report to the Board of Registration in Medicine ("Board") all physician disciplinary actions within thirty (30) days of their initiation. Disciplinary actions, e.g., probation, suspension, termination, non-renewal of appointment, resignation or withdrawal of an application, are reportable if they relate directly or indirectly to the physician's competence to practice medicine or to a complaint or allegation regarding any violation of law, regulation, or bylaws of a health care facility, medical staff, group practice or professional medical association. Other actions, e.g., censure, written reprimands, fines, or imposition of public service are also reportable to the Board regardless of whether they are related to the physician's competence to practice medicine.

Action based on a failure to complete medical records in a timely fashion is not reportable to the Board unless it relates directly or indirectly to the physician's competence to practice medicine or to a complaint or allegation regarding any violation of law, regulation, or bylaws of a health care facility, medical staff, group practice or professional medical association.

The Director of Risk Management, in consultation with the Program Director and Office of General Counsel, will submit reports of disciplinary action to the Board. The TY Resident who is the subject of the report will be notified of the submission of the report.

In the event the Hospital ceases to serve as the designated facility for a TY Resident's Limited License, the Program Director, in consultation with the GME Office, will so notify the Board.

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<sup>1</sup> See Massachusetts General Laws Chapter 111, §53B; 243 CMR §3.02.

## **Appendix A**

### **Appeal Hearing Procedures**

1. Faculty Review Committee. The Faculty Review Committee shall be comprised of three members of the Tufts Transitional Year Residency faculty chosen by the TY Resident from a list of four faculty members chosen by the CEO of the Lemuel Shattuck Hospitals and the Chairperson of the Medical Board. The Faculty Review Committee shall designate a member of the committee as Chair to preside at the hearing.
2. Attendance at the Hearing. The Faculty Review Committee, the involved TY Resident, the TY Program Director, Chair of the affected department, witnesses, and a Lemuel Shattuck Hospital administration representative(s) shall be present at the hearing.
3. Conduct of Hearing. The Hearing shall be conducted in accordance with the procedures set out in below. The hearing shall be no longer than four hours with the TY Resident and the TY Program Director afforded equal time to present information to support their respective positions. At the sole discretion of the Chair, additional time may be granted.
4. Faculty Review Committee Chair's Role. The Chair shall preside at the hearing, shall decide all questions of order and procedure during the hearing, shall ensure that all participants in the hearing have a reasonable opportunity to present pertinent information to the inquiry, and shall maintain decorum.
5. Legal Counsel. Neither the TY Resident, TY Program Director, nor the Faculty Review Committee may have counsel present at the hearing. However, the TY Resident, the TY Program Director, the Department Chair and the Faculty Review Committee may confer with legal counsel as necessary.
6. Documentation; Witnesses. At least five (5) business days prior to the hearing, the TY Resident and the TY Program Director shall provide each other and the Faculty Review Committee with any documents or materials that may be relevant to the inquiry and the names of any witnesses that may provide statements at the hearing.
7. Hearing Procedure. The general order of the hearing shall be as follows:
  - a. The Hearing shall be stenographically recorded and transcribed and copies thereof shall be made available to the TY Resident at the TY Resident's request and expense.
  - b. Witnesses shall not be placed under oath.
  - c. The TY Program Director will be permitted to make an opening statement either orally or in writing. The duration or length of such opening statement shall be at the discretion of the Chair.
  - d. The TY Resident will be permitted to make an opening statement either orally or in writing. The duration or length of such opening statement shall be at the discretion of the Chair.
  - e. The TY Program Director will be permitted to present to the Committee any information or material which the TY Program Director considers pertinent to the inquiry, including any statements which the TY Program Director may wish to make, any written or other documentary material which the TY Program Director may wish to offer, and the statements of any individuals whom the TY Program Director may wish to present. Faculty Review Committee members shall be permitted to question the TY Program Director and the TY Program Director's witnesses.
  - f. The TY Resident will be permitted to present to the Committee any information or material which the TY Resident considers pertinent to the inquiry, including any statements which the TY Resident may wish to make, any written or other documentary material which the

TY Resident may wish to offer, and the statements of any individuals whom the TY Resident may wish to present. The Faculty Review Committee members shall be permitted to question the TY Resident and the TY Resident's witnesses.

- g. Neither the TY Resident nor the TY Program Director shall be permitted to directly question the other party or the other party's witnesses.
  - h. At the conclusion of the TY Program Director's presentation, the TY Program Director and then the TY Resident shall be permitted to make concluding remarks either verbally or in writing.
- 8. The Faculty Review Committee shall deliberate and shall document and present its findings to the CEO of the Hospital.
- 9. The CEO shall review and consider the findings of the Faculty Review Committee and make a final decision regarding the TY Resident's status within three (3) business days following receipt of the Faculty Review Committee's findings.
- 10. The CEO shall provide the TY Resident with written notification of the CEO's decision.
- 11. There shall be no appeal from the CEO's decision.